

SBCivil Writ Petition No.4301/1996
(Ladhu Ram v. State of Raj. & Anr.)

Date of Order :: 13th January, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Sudhir Sharma, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.
Mr. K.L.Thakur, Addl.Advocate General.

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Under Chapter III-B of the Rajasthan Tenancy Act, 1955 (hereinafter referred to as "the Act of 1955") proceedings were initiated against one Smt. Dholi wife of Shri Dhokalram as a consequence of which land situated in Chak No.3 FTP, stone No.220/238, Murrabba No.63, Kila No.11-12 and 17 to 23 was resumed by the State. The land resumed by the Government of Rajasthan was allotted to the petitioner for its temporary cultivation in the years 1973-74 and 1974-75 and it remained in his possession and under cultivation even after year 1974-75.

A notice dated 15.10.1996 was issued by the Sub Divisional Officer (Revenue), Sangaria District Hanumangarh with regard to the land in question for its allotment, to a member of Scheduled Caste, selected under the I.R.D. Project.

The instant petition for writ is preferred by the petitioner giving challenge to the notice dated 15.10.1996 on the count that the petitioner is having possession over the land since 1973-74, therefore,

same should be allotted to him. While giving challenge to the notice dated 15.10.1996 the petitioner has also challenged to validity of provisions of sub-rule(1) of Rule 17 of the Rajasthan Imposition of Ceiling on Agricultural Holdings Rules, 1973. However, at the time of hearing counsel for the petitioner has not pressed the same and emphasised that looking to the fact that the land in question is in petitioner's possession since 1973-74, therefore, the equity requires for making an order to allot the land in question to him.

Heard counsel for the parties.

There is no doubt that the petitioner is trespasser over the land in question as the allotment made in his favour for temporary cultivation was only upto the year 1975 but it is the position admitted that in spite of expiry of the licence for temporary cultivation in the year 1975 the land in question remained under possession of the petitioner and no effective step was taken to dispossess him. The land is still under possession of the petitioner, as stated at bar by counsel for the petitioner, irrespective of the fact that this Court by an interim order dated 28.11.1996 restrained the respondents from making allotment of the land and there was no order for restraining the respondents from dispossessing the petitioner. The petitioner is cultivating the land in

question from last about 33 years. It can very well be said that the petitioner developed and cultivated the land and, therefore, in event if the respondents be permitted to dispossess the petitioner from the land in question now at this stage, it will uproot the petitioner and his family substantially from their livelihood.

In totality of facts and circumstances of the case equity requires that the land in question be allotted to the petitioner by charging present market value of the land from him.

The writ petition, with the directions above, stands disposed of.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.